

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
EASTERN DIVISION

NOV 18 2004  
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MASS.

ATLANTIC RECORDING CORPORATION,	)	CIVIL ACTION No.:
a Delaware corporation; CAPITOL	)	
RECORDS, INC., a Delaware corporation;	)	
ARISTA RECORDS LLC, a Delaware limited	)	
liability company; ELEKTRA	)	
ENTERTAINMENT GROUP INC., a	)	
Delaware corporation; MAVERICK	)	
RECORDING COMPANY, a California joint	)	
venture; WARNER BROS. RECORDS INC., a	)	
Delaware corporation; SONY BMG MUSIC	)	
ENTERTAINMENT, a Delaware general	)	
partnership; VIRGIN RECORDS AMERICA,	)	
INC., a California corporation; BMG MUSIC,	)	
a New York general partnership; and UMG	)	
RECORDINGS, INC., a Delaware corporation,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
DOES 1-5,	)	
	)	
Defendants.	)	

**DECLARATION OF JONATHAN WHITEHEAD IN SUPPORT OF PLAINTIFFS'**  
**MOTION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY**

I, Jonathan Whitehead, have personal knowledge of the facts stated below and, under penalty of perjury, hereby declare:

1. I am Vice President and Counsel for Online Copyright Protection for the Recording Industry Association of America, Inc. ("RIAA"), where I have been employed for

over 6 years. My office is located at 1330 Connecticut Avenue, N.W., Washington, DC 20036.

I submit this declaration in support of Plaintiffs' Motion for Leave to Take Immediate Discovery.

2. This declaration is based on my personal knowledge, and if called upon to do so, I would be prepared to testify as to its truth and accuracy.

### **The RIAA's Role in Protecting Its Member Recording Industry Companies From Copyright Infringement**

3. The RIAA is a not-for-profit trade association whose member record companies create, manufacture, and/or distribute approximately ninety percent of all legitimate sound recordings produced and sold in the United States. The RIAA's member record companies comprise the most vibrant national music industry in the world. A critical part of the RIAA's mission is to assist its member companies in protecting their intellectual property in the United States and in fighting against online and other forms of piracy. All of the Plaintiffs in this action are members of the RIAA.

4. The RIAA investigates the unauthorized reproduction and distribution of copyrighted sound recordings online. As Vice President and Counsel for Online Copyright Protection, I am responsible for formulating and implementing online strategies for the RIAA, including investigations into the online infringement of copyrighted sound recordings of all kinds.

### **The Internet and Music Piracy**

5. The Internet is a vast collection of interconnected computers and computer networks that communicate with each other. It allows hundreds of millions of people around the world to communicate freely and easily and to exchange ideas and information, including

academic research, literary works, financial data, music, movies, graphics, and an unending and ever-changing array of other data. Unfortunately, the Internet also has afforded opportunities for the wide-scale piracy of copyrighted sound recordings and musical compositions. Once a sound recording has been transformed into an unsecured digital format, it can be copied further and distributed an unlimited number of times over the Internet, without significant degradation in sound quality.

6. Much of the unlawful distribution of copyrighted sound recordings over the Internet occurs via “peer-to-peer” (“P2P”) file copying networks or so-called online media distribution systems. The most notorious example of such a P2P system was Napster, which was enjoined by a federal court. In addition, there are many other P2P networks, including KaZaA, eDonkey, iMesh, Grokster, and Gnutella, that continue to operate and to facilitate widespread copyright piracy. The major recording companies are currently engaged in litigation against KaZaA and Grokster. At any given moment, millions of people illegally use online media distribution systems to upload or download copyrighted material.

7. P2P networks, at least in their most popular form, refer to computer systems or processes that enable Internet users to: (1) make files (including audio recordings) stored on a computer available for copying by other users; (2) search for files stored on other users’ computers; and (3) transfer exact copies of files from one computer to another via the Internet. P2P networks enable users who otherwise would have no connection with, or knowledge of, each other to offer to each other for distribution and copying files off of their PCs, to provide a sophisticated search mechanism by which users can locate these files for downloading, and to provide a means of effecting downloads.

8. The major record companies generally have not authorized their copyrighted sound recordings to be copied or distributed in unsecured formats by means of P2P networks. Thus, the vast majority of the content that is copied and distributed on P2P networks is unauthorized by the copyright owner -- that is, the distribution violates the copyright laws.

9. The scope of online piracy of copyrighted works cannot be underestimated. Retail sales -- the principal revenue source for most record companies -- declined 7% in 2000, 10% in 2001, and 11% in 2002. The RIAA member companies lose significant revenues on an annual basis due to the millions of unauthorized downloads and uploads of well-known recordings that are made available on the Internet by infringers who, in virtually all cases, have the ability to maintain their anonymity to all but the Internet Service Provider ("ISP") they use to supply them with access to the Internet.

10. In contrast to the terrible harm to copyright owners, ISPs likely benefit from P2P networks. Those who would unlawfully upload and download copyrighted music often use large amounts of bandwidth (because music files are so large). The infringers thus tend to subscribe to services, such as DSL and cable modems, that are far more expensive than ordinary telephone services. One publication recently estimated that 50-70 percent of the bandwidth of cable broadband network was being used for P2P file copying. See Alan Brezneck, "Service Control Vendors vie for MSO Business," *Cable Datacom News* (March 1, 2003).

11. The persons who commit infringements by using the P2P networks are, by and large, anonymous to Plaintiffs. A person who logs on to a P2P network is free to use any alias (or computer name) whatsoever, without revealing his or her true identity to other users.

Thus, Plaintiffs can observe the infringement occurring on the Internet, but do not know the true names or mailing addresses of those individuals who are committing the infringement.

### **The RIAA's Identification of Copyright Infringers**

12. In order to assist its members in combating copyright piracy, the RIAA conducts searches of the Internet, as well as file-copying services, for infringing copies of sound recordings whose copyrights are owned by RIAA members. A search can be as simple as logging onto a P2P network and examining what files are being offered by others logged onto the network. These searches generally result in the identification of specific Internet Protocol ("IP") addresses from which infringers are making unauthorized copies of sound recordings available to the public. An IP address is a unique identifier that, along with the date and time, specifically identifies a particular computer or server using the Internet. An IP address also allows the RIAA to use publicly available databases to ascertain, in general terms, the ISP that provides the infringer with access to the Internet.

13. The RIAA engages in a painstaking process to determine whether a person is infringing. That process relies on human review of evidence supporting the allegation of infringement. For each suspected infringer, the RIAA reviews a listing of the music files that the user has offered for upload by others from his or her computer in order to determine whether they appear to be copyrighted sound recordings. The RIAA also downloads copyrighted sound recordings from these users, and listens to them in order to confirm that they are, indeed, illegal copies of sound recordings whose copyrights are owned by RIAA members. The RIAA also downloads and stores other evidence, such as metadata accompanying each file being disseminated that demonstrates that the user is engaged in copyright infringement.

14. The RIAA frequently has used the subpoena processes of Federal Rule of Civil Procedure 45 and the Digital Millennium Copyright Act ("DMCA") to obtain the names of infringers from ISPs. (Individuals only can gain access to the Internet after setting up an account with, or subscribing to, an ISP.) The RIAA typically has included in their subpoenas to ISPs an IP address and a date and time on which the RIAA observed use of the IP address in connection with allegedly infringing activity. In some instances, providing the IP address alone to the ISP has been enough to enable the ISP to identify the infringer. Providing the date and time further assists some ISPs in identifying infringers, especially ISPs that use "dynamic IP addressing" such that a single computer may be assigned different IP addresses at different times, including, for example, each time it logs into the Internet.<sup>4</sup> Once provided with the IP address, plus the date and time of the infringing activity, the infringer's ISP quickly and easily can identify the computer from which the infringement occurred (and the name and address of the subscriber that controls that computer), sometimes within a matter of minutes.

15. Since 1998, the RIAA and others have used subpoenas thousands of times to learn the names, addresses, telephone numbers, and e-mail addresses of infringers for the purpose of bringing legal actions against those infringers. During a recent litigation with Verizon (an ISP) relating to the DMCA subpoena process, Verizon conceded that, as an alternative to the DMCA process, Plaintiffs could file "John Doe" lawsuits and issue Rule 45 subpoenas to ISPs to obtain the true identities of infringing subscribers.

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<sup>4</sup> ISPs own or are assigned certain blocks or ranges of IP addresses. An ISP assigns a particular IP address in its block or range to a subscriber when that subscriber goes "online."

### **The RIAA's Identification of the Infringers in This Case**

16. In the ordinary course of investigating online copyright infringement, the RIAA became aware that Defendants were offering files for download on a P2P network. The user-defined author and title of the files offered for download by each Defendant suggested that many were copyrighted sound recordings being disseminated without the authorization of the copyright owners. The RIAA downloaded and listened to a representative sample of the music files being offered for download by each Defendant and was able to confirm that the files each Defendant was offering for distribution were illegal copies of sound recordings whose copyrights are owned by RIAA members. The RIAA also recorded the time and date at which the infringing activity was observed and the IP address assigned to each defendant at the time. See Complaint Exhibit A. The RIAA could not, however, determine the physical location of the users or their identities. The RIAA could determine that the Defendants were using Bridgewater State College's service to distribute and make available for distribution the copyrighted files.

17. The RIAA also has collected for each Defendant a list of the files each Defendant has made available for distribution to the public. Exhibit 1 to this Declaration is this list for the first Defendant referred to in the Complaint. These lists show many hundreds of files, many of which are sound recording (MP3) files that are owned by, or exclusively licensed to, Plaintiffs. Because of the voluminous nature of the lists, and in an effort not to overburden the Court with paper, I have not attached to this Declaration the lists for all Defendants. Such lists will be made available to the Court upon request.

### **The Importance of Expedited Discovery in This Case**

18. Obtaining the identity of copyright infringers on an expedited basis is critical to stopping the piracy of RIAA members' copyrighted works.

19. First, every day that copyrighted material is disseminated without the authorization of the copyright owner, the copyright owner is economically harmed. Prompt identification of infringers is necessary in order for copyright owners to take quick action to stop unlawful dissemination of their works and minimize their economic losses.

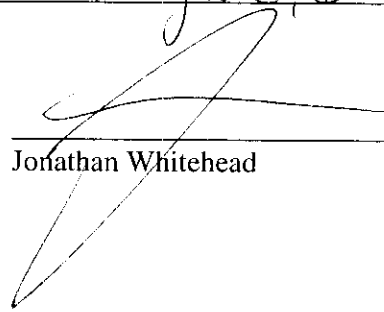
20. Second, infringement often occurs with respect to sound recordings that have not yet been distributed publicly. Such infringement inflicts great harm on the initial market for new works. New recordings generally earn a significant portion of their revenue when they are first released, and copyright piracy during a recording's pre-release or early release period therefore deprives copyright owners of an important opportunity to reap the benefits of their labor.

21. Third, without expedited discovery Plaintiffs have no way of serving Defendants with the complaint and summons in this case. Plaintiffs do not have the Defendants' names or addresses, nor do they have an e-mail address for Defendants.

22. Fourth, and perhaps most critically, service providers have different policies pertaining to the length of time they preserve "logs" which identify their users. ISPs keep log files of their user activities for only limited periods of time – which can range from as short as a few days, to a few months – before erasing the data they contain. If an ISP does not respond expeditiously to a discovery request, the identification information in the ISP's logs may be erased, making it impossible for the ISP to determine the identity of the infringer and eliminating the copyright owner's ability to take action to stop the infringement.

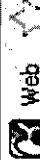
I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on November 12, 2004 in Washington, DC.



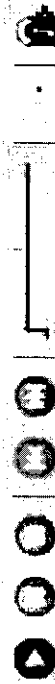
Jonathan Whitehead

User	Filename	Artist	Size	Media Type
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BSCspeedy800@filesare	Gavin DeGraw - Meaning.mp3	Gavin DeGraw	5,062KB	Audio
BSCspeedy800@filesare	05 Revellusion.wma	A	1,671KB	Audio
BSCspeedy800@filesare	Shifty - Slide Along Side.mp3	Shinedown	6,320KB	Audio
BSCspeedy800@filesare	mase - welcome back (7).mp3	Unknown	5,657KB	Audio
BSCspeedy800@filesare	01 Don't Panic.wma	A	1,085KB	Audio
BSCspeedy800@filesare	03 Spies.wma	A	2,523KB	Audio
BSCspeedy800@filesare	05 Final Answer.wma	A	2,171KB	Audio
BSCspeedy800@filesare	05 Yellow.wma	A	2,132KB	Audio
BSCspeedy800@filesare	06 Trouble.wma	A	2,144KB	Audio
BSCspeedy800@filesare	03 Amy Hit the Atmosphere 3.wma	A	2,197KB	Audio
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BSCspeedy800@filesare	01 Round Here.wma	A	2,622KB	Audio
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BSCspeedy800@filesare	10 Live Those Songs.wma	Kenny Chesney	3,627KB	Audio
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BSCspeedy800@filesare	dmv1key.bak	Unknown	4KB	
BSCspeedy800@filesare	01 Privilege.wma	A	1,855KB	Audio
BSCspeedy800@filesare	dmv1lic.bak	Unknown	0KB	
BSCspeedy800@filesare	mase-welcome back-mase.mp3	Mase	3,815KB	Audio
BSCspeedy800@filesare	02 Nowhere Fast.wma	A	2,143KB	Audio
BSCspeedy800@filesare	03 ...	A	1,877KB	Audio



Search Field

User	Filename	Artist	Size	Media Type
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BSCspeedy800@fileskare	03 Consequence.wma	A	1,577KB	Audio
BSCspeedy800@fileskare	04 The Warmth.wma	A	2,096KB	Audio
BSCspeedy800@fileskare	05 When It Comes.wma	A	1,908KB	Audio
BSCspeedy800@fileskare	06 Stellar.wma	A	1,588KB	Audio
BSCspeedy800@fileskare	Mase - Welcome Back.mp3	Mase	3,525KB	Audio
BSCspeedy800@fileskare	08 Drive.wma	A	1,838KB	Audio
BSCspeedy800@fileskare	09 Clean.wma	A	1,864KB	Audio
BSCspeedy800@fileskare	10 Battlestar Scralatchtica.wma	A	1,817KB	Audio
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BSCspeedy800@fileskare	Desktop.ini	Unknown	0KB	
BSCspeedy800@fileskare	01 Lose Yourself.wma	A	2,547KB	Audio
BSCspeedy800@fileskare	03 8 Mile.wma	A	2,867KB	Audio
BSCspeedy800@fileskare	04 Adrenaline Rush.wma	A	1,826KB	Audio
BSCspeedy800@fileskare	05 Places to Go.wma	A	2,034KB	Audio
BSCspeedy800@fileskare	06 Rap Game.wma	A	2,811KB	Audio
BSCspeedy800@fileskare	07 8 Miles and Runnin'.wma	A	1,978KB	Audio
BSCspeedy800@fileskare	01 - meant to live (8).mp3	Switchfoot	2,418KB	Audio
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BSCspeedy800@fileskare	01 meant to live.m3u	Switchfoot	4 010KB	Audio



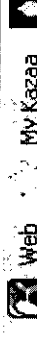
User	Filename	Artist	Size	Media Type
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B5Cspeedy800@fileshare	01-meant to live.mp3	Switchfoot	4,819KB	Audio
B5Cspeedy800@fileshare	AlbumArt5small.jpg	Unknown	2KB	Image
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B5Cspeedy800@fileshare	02 Slide.wma	A	1,692KB	Audio
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B5Cspeedy800@fileshare	07 Amigone.wma	A	1,560KB	Audio
B5Cspeedy800@fileshare	08 All Eyes on Me.wma	A	1,892KB	Audio
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B5Cspeedy800@fileshare	12 Extra Pale.wma	A	1,044KB	Audio
B5Cspeedy800@fileshare	Trace Adkins - Rough And Ready.wma	(A	2,973KB	Audio
B5Cspeedy800@fileshare	13 Hate This Place.wma	A	2,091KB	Audio
B5Cspeedy800@fileshare	Green Day - Brain Stew.mp3	Green Day	3,016KB	Audio
B5Cspeedy800@fileshare	11 The Last Resort.wma	A	3,518KB	Audio
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02 Liv

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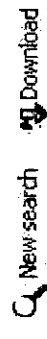
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B5Cspeedy800@fileskare	07 Rain King.wma	A	2,024KB	Audio		
B5Cspeedy800@fileskare	08 Sullivan Street.wma	A	2,132KB	Audio		
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B5Cspeedy800@fileskare	03 - Train - When I Look To The Sky.wma	Train	3,836KB	Audio		
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User	Filename	Artist	Size	Media Type
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B5Cspeedy800@fileskare	04 Drowning Lessons.wma	My Chemical Romance	2,087KB	Audio
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B5Cspeedy800@fileshare	09 We Never Change.wma	A	1,977KB	Audio	
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Web



My Kazaa



Theater



Search



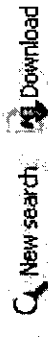
Traffic



Shop



Tell A Friend



New search

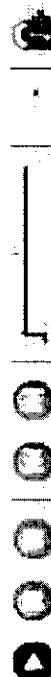


Download



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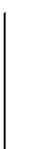
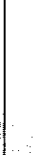
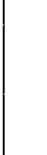
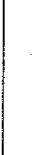
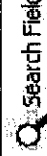
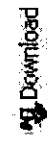


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Web My Kazaa



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David Lee Member

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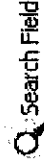
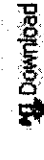
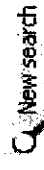
David Lee Member

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B5Cspeedy800@fileshare	Tim McGraw - Barbeque Stain.mp3	Tim McGraw	2,857KB	Audio
B5Cspeedy800@fileshare	Tim McGraw - Just to see you smile.mp3	Tim McGraw	3,329KB	Audio
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B5Cspeedy800@fileshare	Tom Petty - American Girl.mp3	Tom Petty - The Heartbr...	3,273KB	Audio
B5Cspeedy800@fileshare	Tom Petty - Roll Another Joint.mp3	Tom Petty	4,523KB	Audio
B5Cspeedy800@fileshare	Tom Petty - The Last D.J.mp3	Tom Petty	3,599KB	Audio
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B5Cspeedy800@fileshare	Trent Willmon - 1-Beer_Man.wma	Trent Willmon	3,243KB	Audio
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B5Cspeedy800@filesahre	02 Mrs. Potter's Lullaby 2.wma	A	3,684KB	Audio	
B5Cspeedy800@filesahre	04 Four Days 4.wma	A	1,648KB	Audio	
B5Cspeedy800@filesahre	05 All My Friends 5.wma	A	2,300KB	Audio	
B5Cspeedy800@filesahre	06 High Life 6.wma	A	3,012KB	Audio	
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B5Cspeedy800@filesahre	08 I Wish I Was a Girl 8.wma	A	2,807KB	Audio	
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User	Filename	Artist	Size	Media Type
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BSCspeedy800@filesahre	10 Memento.wma	A	1,786KB	Audio
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BSCspeedy800@filesahre	04 She Will Be Loved.wma	A	2,039KB	Audio
BSCspeedy800@filesahre	05 Tangled.wma	A	1,572KB	Audio
BSCspeedy800@filesahre	06 The Sun.wma	A	1,992KB	Audio
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BSCspeedy800@filesahre	08 Sunday Morning.wma	A	1,948KB	Audio
BSCspeedy800@filesahre	09 Secret.wma	A	2,335KB	Audio
BSCspeedy800@filesahre	10 Through With You.wma	A	1,440KB	Audio
BSCspeedy800@filesahre	11 Not Coming Home.wma	A	2,068KB	Audio
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Web



Theater



Search



Traffic



Shop



Tell A Friend



New search



Download

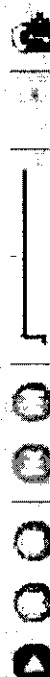


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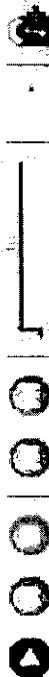
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B5Cspeedy800@filesahre	04 Down With the Sickness.wma	A	2,206KB	Audio	
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B5Cspeedy800@filesahre	11 Droppin' Plates.wma	A	1,816KB	Audio	
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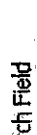
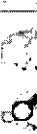
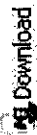
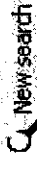
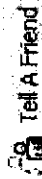
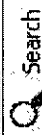
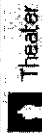


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B5Cspeedy800@fileshare	05 Tequila Sunrise.wma	A	1,656KB	Audio	
B5Cspeedy800@fileshare	06 Hotel California.wma	A	3,424KB	Audio	
B5Cspeedy800@fileshare	07 Wasted Time.wma	A	2,538KB	Audio	
B5Cspeedy800@fileshare	08 Pretty Maids All in a Row.wma	A	2,122KB	Audio	08 Pretty
B5Cspeedy800@fileshare	09 I Can't Tell You Why.wma	A	2,471KB	Audio	
B5Cspeedy800@fileshare	10 New York Minute.wma	A	3,151KB	Audio	
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B5Cspeedy800@fileshare	13 In the City.wma	A	1,973KB	Audio	
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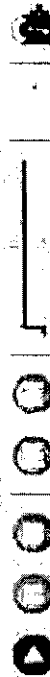


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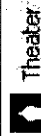


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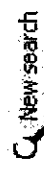
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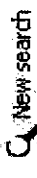
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User	Filename	Artist	Size	Media Type
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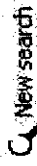
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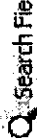
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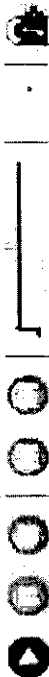


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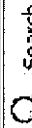




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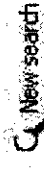
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User	Filename	Artist	Size	Media Type
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A Sip Of Wine Ch  
BGirl





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B5Cspeedy800@fileshare	Sugarcult-Rich Girl.mp3	Sugarcult	522KB	Audio
B5Cspeedy800@fileshare	Whitesnake - Here I Go Again.mp3	Whitesnake	4,330KB	Audio
B5Cspeedy800@fileshare	Duncan Sheik - Barely Breathing.mp3	Duncan Sheik	3,991KB	Audio
B5Cspeedy800@fileshare	Smashing Pumpkins - Zero.mp3	Smashing Pumpkins	2,502KB	Audio
B5Cspeedy800@fileshare	Stone Temple Pilots - Creep.mp3	Stone Temple Pilots	5,209KB	Audio
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B5Cspeedy800@fileshare	03 - Memory.mp3	Sugarcult	5,302KB	Audio
B5Cspeedy800@fileshare	Jack Black - School of Rock.mp3	Jack Black	3,950KB	Audio
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B5Cspeedy800@fileshare	09 What A Beautiful Day - Chris Cagle.mp3	Chris Cagle	3,564KB	Audio
B5Cspeedy800@fileshare	1 Alabama - Dixie Land Delight.mp3	Alabama	5,032KB	Audio
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B5Cspeedy800@fileshare	Guns and Roses - Knockin' on heavens door.mp3	Guns and Roses	4,709KB	Audio
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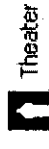


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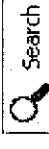




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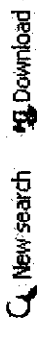
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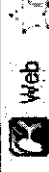
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B5Cspeedy800@fileskare	John Michael Montgomery - Be My Baby Tonight.mp3	John Michael Montgomery	2,697KB	Audio
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B5Cspeedy800@fileskare	03 Sweet Southern Comfort Buddy Jewell.wma	Buddy Jewell	5,018KB	Audio
B5Cspeedy800@fileskare	a static lullaby - love to hate, hate to me.mp3	A Static Lullaby	3,568KB	Audio
B5Cspeedy800@fileskare	Nickleback- Figured You Out.mp3	Nickleback	3,570KB	Audio
B5Cspeedy800@fileskare	Trace Adkins - Chrome.mp3	Trace Adkins	3,172KB	Audio
B5Cspeedy800@fileskare	Adema-Freaking Out.mp3	Adema	3,370KB	Audio
B5Cspeedy800@fileskare	Joe Satriani - Top Gun Theme.mp3	Joe Satriani	3,914KB	Audio
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B5Cspeedy800@fileskare	Blue Collar - Sex Talk.mp3	Ron White, Larry the Cab...	1,009KB	Audio
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B5Cspeedy800@fileskare	02. Show Me How To Live.mp3	Audioslave	4,343KB	Audio
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B5Cspeedy800@fileskare	Copy of Adema - The Way You Like It.mp3	Adema	3,438KB	Audio
B5Cspeedy800@fileskare	Copy of Eve 6 - Amphetamines.mp3	Eve6	2,596KB	Audio
B5Cspeedy800@fileskare	Counting Crows - Mrs Porters Lullaby.mp3	Counting Crows	3,172KB	Audio
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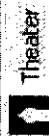


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B5Cspeedy800@filesahre	Toby Keith - American Soldier.mp3	Toby Keith	4,117KB	Audio
B5Cspeedy800@filesahre	Eve 6 - Nocturnal.mp3	Eve6	2,936KB	Audio
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B5Cspeedy800@filesahre	Saliva - Rest In Pieces.mp3	Saliva	3,545KB	Audio
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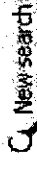
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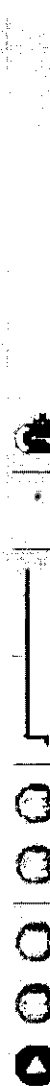


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B5Cspeedy800@filesahre	Brand New - Soco Amaretto Line.mp3	Brand New	3,401KB	Audio
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B5Cspeedy800@filesahre	a static lullaby - Song for a broken heart.mp3	A Static Lullaby	1,530KB	Audio
B5Cspeedy800@filesahre	Aaron Lines - You Can't Hide Beautiful.mp3	Aaron Lines	3,408KB	Audio
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BSCspeedy800@fileskare	Authority Zero - Open Eyes.mp3	Authority Zero	3,398KB	Audio
BSCspeedy800@fileskare	Authority Zero - Sky's the Limit.mp3	Authority Zero	3,658KB	Audio
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BSCspeedy800@fileskare	Billy Joel - We Didn't Start the Fire.mp3	Billy Joel	4,544KB	Audio
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BSCspeedy800@fileskare	Brad Paisley - I'm Gonna Miss Her.mp3	Brad Paisley	3,030KB	Audio
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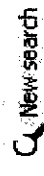
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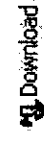
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BSCspeedy800@filesahre	brand new - soco ameretto line.mp3	Brand New	4,448KB	Audio
BSCspeedy800@filesahre	Brooks And Dunn - You Can't Take The Honky Tonk.wma	Brooks And Dunn	2,187KB	Audio
BSCspeedy800@filesahre	Bush - Come Down.mp3	Bush	5,091KB	Audio
BSCspeedy800@filesahre	Bush - Glycerine.mp3	Bush	4,057KB	Audio
BSCspeedy800@filesahre	Bush - Machine Head.mp3	Bush	4,004KB	Audio
BSCspeedy800@filesahre	Bush - Mouth.mp3	Bush	4,272KB	Audio
BSCspeedy800@filesahre	CCR - Rolling on the River.mp3	Creedence Clearwater R...	3,081KB	Audio
BSCspeedy800@filesahre	Comedy Central Presents Dane Cook (DivX).wmv	Comedy Central Presents	55,066KB	Video
BSCspeedy800@filesahre	Copy of Barenaked Ladies - Pinch Me.mp3	Barenaked Ladies	4,368KB	Audio
BSCspeedy800@filesahre	counting crows - big yellow taxi.mp3	Counting Crows	3,696KB	Audio
BSCspeedy800@filesahre	Cranberries - Zombie.mp3	Cranberries	4,189KB	Audio
BSCspeedy800@filesahre	Creed - Higher.mp3	Creed	4,977KB	Audio
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BSCspeedy800@filesahre	Eagle Eye Cherry - Save Tonight.MP3	Eagle Eye Cherry	1,626KB	Audio
BSCspeedy800@filesahre	Eagles - Take It To The Limit.mp3	Eagles	4,476KB	Audio
BSCspeedy800@filesahre	Eamon-Felicit-(explicit).mp3	Eamon	5,354KB	Audio
BSCspeedy800@filesahre	Eden - Deal With Me Now (DivX) 70MBite Home.mp3	Eden	2,270KB	Audio

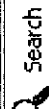




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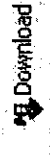
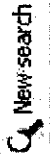
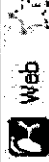
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B5Cspeedy800@filesahre	Edwin McCain - I'll Be.mp3	Edwin McCain	5,110KB	Audio
B5Cspeedy800@filesahre	Eric Clapton - Tears In Heaven.mp3	Eric Clapton	4,315KB	Audio
B5Cspeedy800@filesahre	Everclear - Santa Monica (acoustic).mp3	Everclear	2,742KB	Audio
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B5Cspeedy800@filesahre	Filter - Take a Picture.mp3	Filter	5,685KB	Audio
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B5Cspeedy800@filesahre	Ingram Hill - Long Drive Home.mp3	artist	6,844KB	Audio
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B5Cspeedy800@filesahre	John Michael Montgomery - I Swear (1).mp3	John Micheal Montgomery	3,124KB	Audio
B5Cspeedy800@filesahre	Josh Gracin Idol I Want to Live.mp3	Josh Gracin	3,668KB	Audio
B5Cspeedy800@filesahre	Julie Roberts - Break Down Here (1).mp3	Julie Roberts	3,896KB	Audio
B5Cspeedy800@filesahre	Junior Senior - Move Your Feet.mpg	Junior Senior	33,098KB	Video
B5Cspeedy800@filesahre	Keith Urban - Who Wouldn't Wanna Be Me.mp3	Keith Urban	4,017KB	Audio
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B5Cspeedy800@filesahre	Kenny Chesney - Me And You.mp3	Kenny Chesney	3,430KB	Audio
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B5Cspeedy800@filesahre	Kenny Chesney - When I Close My Eyes.mp3	Kenny Chesney	3,408KB	Audio
B5Cspeedy800@filesahre	Larry the Cable Guy - Dickweed.mp3	Larry the Cable Guy	5,068KB	Audio
B5Cspeedy800@filesahre	Larry the Cable Guy - Dirty Star Wars.mp3	Ron White	1,525KB	Audio
B5Cspeedy800@filesahre	Larry the Cable Guy - Emmanuelle From mp3	Larry the Cable Guy	5,140KB	Audio

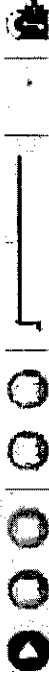


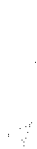
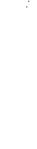
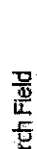
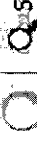
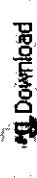
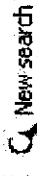
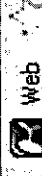
User	Filename	Artist	Size	Media Type
B5Cspeedy800@filesahre	Larry the Cable Guy - Dirty Star Wars.mp3	Ron White	1,526KB	Audio
B5Cspeedy800@filesahre	Larry The Cable Guy - Emergency Room.mp3	Larry the Cable Guy	5,140KB	Audio
B5Cspeedy800@filesahre	Larry the Cable Guy - Fake Titties (Live).mp3	Ron White	2,782KB	Audio
B5Cspeedy800@filesahre	Larry the Cable Guy - Redheads (Live).mp3	Larry the Cable Guy	4,582KB	Audio
B5Cspeedy800@filesahre	Less Than Jake - Blue Moon.mp3	Less Than Jake	1,532KB	Audio
B5Cspeedy800@filesahre	Less Than Jake - I Would Walk 500 Miles.mp3	Less Than Jake	3,852KB	Audio
B5Cspeedy800@filesahre	Less Than Jake - Look What Happened.mp3	Less Than Jake	3,466KB	Audio
B5Cspeedy800@filesahre	Linkin Park - Crawling.mp3	Linkin Park	3,266KB	Audio
B5Cspeedy800@filesahre	Linkin Park - In The End.mp3	Linkin Park	3,382KB	Audio
B5Cspeedy800@filesahre	Linkin Park - Lying From You.mp3	Linkin Park	2,772KB	Audio
B5Cspeedy800@filesahre	Linkin Park - Numb.mp3	Linkin Park	2,932KB	Audio
B5Cspeedy800@filesahre	Live - The Dolphins Cry.mp3	Live	4,123KB	Audio
B5Cspeedy800@filesahre	Live Like You Were Dying.mp3	Tim McGraw	4,496KB	Audio
B5Cspeedy800@filesahre	Lonestar - Let's Be Us Again.mp3	Lonestar	3,604KB	Audio
B5Cspeedy800@filesahre	Lonestar - My Front Porch Looking In.mp3	Lonestar	3,350KB	Audio
B5Cspeedy800@filesahre	Lonestar - Walkin In Memphis (new).mp3	Lonestar	3,611KB	Audio
B5Cspeedy800@filesahre	Lord Tariq_Peter Gunz - Deja Vu.mp3	Lord Tariq_Peter Gunz	4,442KB	Audio
B5Cspeedy800@filesahre	Lost Prophets - A Thousand Apologies.mp3	Lost Prophets	3,825KB	Audio
B5Cspeedy800@filesahre	Lynard Skynard - Sweet Home Alabama.mp3	Lynard Skynard	4,688KB	Audio
B5Cspeedy800@filesahre	Lynrd Skynrd-Simple Kind Of Man.MP3	Lynard Skynrd	5,560KB	Audio
B5Cspeedy800@filesahre	Maroon - Harder To Breathe.mp3	Maroon 5	2,040KB	Audio
B5Cspeedy800@filesahre	Maroon - Rag Doll.mp3	Maroon 5	5,164KB	Audio
B5Cspeedy800@filesahre	Maroon 5 - This Love.mp3	Maroon 5	3,243KB	Audio
B5Cspeedy800@filesahre	Matchbook Romance - I wish I could leave.mp3	Matchbook Romance	3,350KB	Audio
B5Cspeedy800@filesahre	Matchbook Romance - If All Else Fails.mp3	Matchbook Romance	5,167KB	Audio
B5Cspeedy800@filesahre	Matchbook Romance - Short_Sweet.mp3	Matchbook Romance	3,173KB	Audio
B5Cspeedy800@filesahre	Matchbox Romance - Farewell to Friends.mp3	Matchbook Romance	1,580KB	Audio
B5Cspeedy800@filesahre	Matchbox20 - Leave.mp3	Matchbox 20	4,272KB	Audio
B5Cspeedy800@filesahre	Montgomery Gentry - Speed.mp3	Montgomery Gentry	3,771KB	Audio
B5Cspeedy800@filesahre	Montgomery Gentry - M... Train.mp3	Montgomery Gentry	4,200KB	Audio





User	Filename	Artist	Size	Media Type
BSCspeedy800@fileshare	Montgomery Gentry - Speed.mp3	Montgomery Gentry	3,771KB	Audio
BSCspeedy800@fileshare	Montgomery Gentry- My Town.mp3	Montgomery Gentry	4,209KB	Audio
BSCspeedy800@fileshare	Montgomery Gentry-She Couldn't Change Me.mp3	Montgomery Gentry	3,478KB	Audio
BSCspeedy800@fileshare	My Chemical Romance - This Is The Best Day Ever - hiqua...	My Chemical Romance	2,073KB	Audio
BSCspeedy800@fileshare	New Radicals - You Get What You Give.mp3	New Radicals	4,719KB	Audio
BSCspeedy800@fileshare	Nickelback - Feeling Way Too Damn Good.mp3	Nickelback	4,010KB	Audio
BSCspeedy800@fileshare	Nickelback - See You At The Show.mp3	Nickelback	3,870KB	Audio
BSCspeedy800@fileshare	Nickelback - Breath.mp3	Nickelback	3,728KB	Audio
BSCspeedy800@fileshare	Nickelback - Deep.mp3	Nickelback	2,630KB	Audio
BSCspeedy800@fileshare	Nickelback - Detangler.mp3	Nickelback	3,465KB	Audio
BSCspeedy800@fileshare	Nickelback - Hero (Spiderman Soundtrack).mp3	Chad Kroeger	3,156KB	Audio
BSCspeedy800@fileshare	Nickelback - Leader of men.mp3	Nickelback	3,286KB	Audio
BSCspeedy800@fileshare	Nickelback - Silver Side Up - Too Bad.mp3	Nickelback	3,175KB	Audio
BSCspeedy800@fileshare	Nickelback - Someday (1).mp3	Nickelback	3,206KB	Audio
BSCspeedy800@fileshare	Nine Days - Absolutely (Story Of A Girl).mp3	Nine Days	2,910KB	Audio
BSCspeedy800@fileshare	Nine Days - If I am.mp3	Nine Days	3,706KB	Audio
BSCspeedy800@fileshare	Oasis - Don't Go Away.mp3	Oasis	4,510KB	Audio
BSCspeedy800@fileshare	Oasis - Wonderwall.mp3	Oasis	4,033KB	Audio
BSCspeedy800@fileshare	Offspring - Self Esteem.mp3	The Offspring	4,032KB	Audio
BSCspeedy800@fileshare	Offspring - The Kids Aren't Alright.mp3	The Offspring	2,824KB	Audio
BSCspeedy800@fileshare	Pat Green - Carry On.mp3	Pat Green	4,716KB	Audio
BSCspeedy800@fileshare	Pat Green - Everclear.mp3	Pat Green	3,877KB	Audio
BSCspeedy800@fileshare	Pat Green - Wave on Wave.mp3	Pat Green	3,727KB	Audio
BSCspeedy800@fileshare	Phish - Farmhouse.mp3	Phish	3,814KB	Audio
BSCspeedy800@fileshare	Poison - Every Rose Has Its Thorn.mp3	Poison	4,084KB	Audio
BSCspeedy800@fileshare	Rascal Flatts - Melt - 03 - I Melt.mp3	Rascal Flatts	3,665KB	Audio
BSCspeedy800@fileshare	REM - Losing My Religion.mp3	REM	4,203KB	Audio
BSCspeedy800@fileshare	REM - Man On The Moon.mp3	REM	4,910KB	Audio
BSCspeedy800@fileshare	Rob Zombie - Feel So Numb.mp3	Rob Zombie	3,408KB	Audio
BSCspeedy800@fileshare	G... (Name Unknown)	G...	2,600KB	Audio





User	Filename	Artist	Size	Media Type
BSCspeedy800@fileshare	Rob_Zombie_-_Feel_So_Numb.mp3	Rob Zombie	3,408KB	Audio
BSCspeedy800@fileshare	Saliva - Always (New release Nov 02).mp3	Saliva	3,586KB	Audio
BSCspeedy800@fileshare	Saliva - Click Click Boom.mp3	Saliva	3,452KB	Audio
BSCspeedy800@fileshare	Semisonic - Closing Time.mp3	Semisonic	4,259KB	Audio
BSCspeedy800@fileshare	Seven Mary Three - Cumbersome.mp3	Seven Mary Three	3,736KB	Audio
BSCspeedy800@fileshare	shinedown - fly from the inside.mp3	Shinedown	3,629KB	Audio
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BSCspeedy800@fileshare	SOTY - In Her Bedroom.mp3	Story Of The Year	9,546KB	Audio
BSCspeedy800@fileshare	Soul Asylum - Runaway Train.mp3	Soul Asylum	3,644KB	Audio
BSCspeedy800@fileshare	Spin Doctors - Little Miss Can't Be Wrong.mp3	Spin Doctors	3,665KB	Audio
BSCspeedy800@fileshare	Stone Temple Pilots - Interstate Love Song.mp3	Stone Temple Pilots	3,038KB	Audio
BSCspeedy800@fileshare	Stone Temple Pilots - Plush.mp3	Stone Temple Pilots	4,901KB	Audio
BSCspeedy800@fileshare	Stone Temple Pilots - Sour Girl.mp3	Stone Temple Pilots	3,985KB	Audio
BSCspeedy800@fileshare	Stone Temple Pilots - Wicked Garden.mp3	Stone Temple Pilots	3,767KB	Audio
BSCspeedy800@fileshare	Story Of The Year - Razorblades.mp3	STORY OF THE YEAR	3,167KB	Audio
BSCspeedy800@fileshare	STORY OF THE YEAR - UNTIL THE DAY I DIE.mp3	STORY OF THE YEAR	3,783KB	Audio
BSCspeedy800@fileshare	Sublime - What I Got.mp3	Sublime	2,673KB	Audio
BSCspeedy800@fileshare	switchfoot - Dare You To Move.mp3	Switchfoot	4,318KB	Audio
BSCspeedy800@fileshare	System Of A Down - Aerials.mp3	System Of A Down	3,772KB	Audio
BSCspeedy800@fileshare	System Of A Down - Toxicity.mp3	System of a Down	3,389KB	Audio
BSCspeedy800@fileshare	The Secret Machines - breathe.mp3	The Secret Machines	1,863KB	Audio
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BSCspeedy800@fileshare	thrice - all thats left.mp3	Thrice	3,117KB	Audio
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BSCspeedy800@fileshare	Thrice - Identity Crisis.mp3	Thrice	2,783KB	Audio
BSCspeedy800@fileshare	Thrice - In Your Hands.mp3	Thrice	2,614KB	Audio
BSCspeedy800@fileshare	Thrice - Kill Me A Little.mp3	Thrice	2,609KB	Audio









UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

SONY MUSIC ENTERTAINMENT INC.,	)	
et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 4:04-CV-339 CEJ
	)	
DOES 1 - 200,	)	
	)	
Defendants.	)	

**ORDER**

This matter is before the Court on plaintiffs' motion for leave to take immediate discovery. Plaintiffs are record companies who own copyrights in several sound recordings. They seek leave to serve limited discovery upon a third party Internet Service Provider ("ISP") to determine the true identities of the 200 Doe defendants who are being sued for direct copyright infringement. Plaintiffs argue that without this discovery they cannot identify the defendants, and they would be unable to pursue their lawsuit to protect their copyrighted works from infringement.

Defendants are alleged to have used an online media distribution system to download plaintiffs' copyrighted works, to distribute copyrighted works, and/or to make copyrighted works available for distribution to others. Plaintiffs have identified each defendant by a unique Internet Protocol ("IP") address assigned to that defendant on the date and time of the alleged infringing activity. Plaintiffs have made copies of sound recordings each defendant made available for distribution, and have

obtained copies of a more complete list of files that each defendant has made available to the public for distribution. The ISP that provided Internet access to these defendants is Charter Communications, Inc. ("Charter"). Charter is able to match an IP address to a particular subscriber by reviewing its subscriber activity logs. These activity logs are typically retained by the ISP for a limited period of time; therefore, plaintiffs seek immediate discovery before the information is permanently destroyed.

Courts allow discovery to identify Doe defendants. See Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999); Valentin v. Dinkins, 121 F.3d 72, 75 (2nd Cir. 1997); Munz v. Parr, 758 F.2d 1254, 1257 (8th Cir. 1985). Courts will also allow expedited discovery where the party establishes good cause, i.e. the need for expedited discovery, in consideration of administration of justice, outweighs prejudice to responding party. Semitool, Inc. v. Tokyo Electron Am., Inc., 208 F.R.D. 273, 276 (N.D. Cal. 2002); Qwest Comm. Int'l, Inc. v. WorldQuest Networks, Inc., 213 F.R.D. 418, 419 (D. Colo. 2003); Yokohama Tire Corp. v. Dealers Tire Supply, Inc., 202 F.R.D. 612, 613-14 (D. Ariz. 2001). Plaintiffs demonstrate good cause here because they show irreparable harm from infringement, no prejudice to defendants, limited availability of the information sought and the movement forward of the case.


Plaintiffs have shown that they will suffer ongoing irreparable harm by the repeated unauthorized copying of their

copyrighted material. In addition, the defendants will not be prejudiced because plaintiffs seek contact information only and will use the information for the limited purpose of enforcing their rights under the Copyright Act. Because the information regarding the identity of the IP subscribers is available only for a limited time, the plaintiffs may lose the opportunity to assert their rights if they are not allowed immediate discovery. Plaintiffs are unable to obtain the subscriber names by any other means, and without this information the case cannot proceed.

Accordingly,

**IT IS HEREBY ORDERED** that the plaintiff's motion for leave to take immediate discovery [#3] is **granted**.

**IT IS FURTHER ORDERED** that the plaintiffs may immediately serve a Rule 45 subpoena on Charter Communications, Inc. to obtain the identity of each defendant solely for the purpose of protecting plaintiffs' rights under the Copyright Act.

  
CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE

Dated this 22nd day of April, 2004.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**VIRGIN RECORDS AMERICA, INC.,**

et al.

Plaintiffs

v.

**JOHN DOE,**

Defendant

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Civil No. **PJM 04-964**

**ORDER**

Upon Consideration of Plaintiffs' Motion for Leave to Take Immediate Discovery [Paper No. 4],  
it is this 19th day of April, 2004,

**ORDERED:**

- 1) Plaintiffs' Motion for Leave to Take Immediate Discovery [Paper No. 4] is GRANTED;
- 2) Plaintiffs will be allowed to serve immediate discovery on the University of Maryland to obtain the identity of the John Doe Defendant by serving a Rule 45 subpoena that seeks information sufficient to identify said Defendant, including the name, address, telephone number, e-mail address, and Media Access Control address of Defendant;
- 3) If and when the University of Maryland is served with a subpoena, it shall give written notice, which can include use of e-mail, to the subscriber in question within five business days. If the University of Maryland and/or Defendant wishes to move to quash the

subpoena, the party must do so before the return date of the subpoena, which shall be 25 days from the date of service;

- 4) If and when the University of Maryland is served with a subpoena, it shall preserve the subpoenaed information pending resolution of any timely filed motions to quash;
- 5) Any information disclosed to Plaintiffs in response to the Rule 45 subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights under the Copyright Act as set forth in the Complaint; and
- 6) Plaintiffs shall provide a copy of their Motion for Leave to Take Immediate Discovery and of this Order to the University of Maryland along with the subpoena.

\_\_\_\_\_  
/s/  
PETER J. MESSITTE  
UNITED STATES DISTRICT JUDGE



7

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Walker D. Miller

Civil Action No. 04-WM-548 (PAC)

FONOVISA, INC.,  
CAPITOL RECORDS, INC.,  
MAVERICK RECORDING CO.,  
LONDON-SIRE RECORDS INC.,  
ARISTA RECORDS, INC.,  
BMG MUSIC,  
INTERSCOPE RECORDS,  
PRIORITY RECORDS LLC,  
SONY MUSIC ENTERTAINMENT INC.,  
VIRGIN RECORDS AMERICA, INC.,  
UMG RECORDINGS, INC.,  
WARNER BROS. RECORDS INC.,  
MOTOWN RECORD COMPANY, L.P.,  
ELEKTRA ENTERTAINMENT GROUP INC., and  
ATLANTIC RECORDING CORPORATION,

Plaintiffs,

v.

DOES 1-67,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

APR - 8 2004

GREGORY C. LANGHAM  
CLERK

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ORDER

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Miller, J.

This matter is before me on the Plaintiffs' *Ex Parte* Application for Leave to Take Immediate Discovery ("Application"), filed March 23, 2004. Having considered the Application, Plaintiffs' memorandum of law in support of the Application, and the Declaration of Jonathan Whitehead, I conclude that the Application should be granted, as modified below.

On March 23, 2004, Plaintiffs filed a complaint for copyright infringement against

sixty-seven John Doe defendants ("Defendants"). The complaint alleges that Defendants distributed and/or duplicated copyrighted sound recordings owned or controlled by the Plaintiffs without Plaintiffs' authorization via an online media distribution system in violation of 17 U.S.C. § 501. However, Plaintiffs are only able to identify Defendants with an unique Internet Protocol ("IP") address; they do not know Defendants' names or any other identifying information.

Consequently, Plaintiffs seek permission to obtain immediate discovery from Defendants' Internet Service Provider ("ISP"), Level 3 Communications, LLC ("Level 3"), whose subscriber activity log files would allow Plaintiffs to discover Defendants' identities. Specifically, they wish to serve a subpoena on Level 3 pursuant to Fed. R. Civ. P. 45, seeking each Defendant's true name, address, telephone number, e-mail address, and Media Access Control ("MAC") address.<sup>1</sup>

Under Fed. R. Civ. P. 26(d), "a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f)," unless authorized by a court order or agreement of the parties or when otherwise allowed under the Rules of Civil Procedure. A court order allowing expedited discovery will issue only upon a showing of good cause. *Qwest Communications Int'l, Inc. v. Worldquest Networks, Inc.*, 213 F.R.D. 418, 419 (D. Colo. 2003); *Pod-ners, LLC v. Northern Feed & Bean of Lucerne LLC*, 204 F.R.D. 675, 676 (D. Colo. 2002).

Here, Plaintiffs argue that their immediate need of the data in the subscriber

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<sup>1</sup>A MAC address is the hardware address that uniquely identifies each node, or processing location (such as a computer), of a network. See Webopedia, at [http://www.webopedia.com/TERM/M/MAC\\_address.html](http://www.webopedia.com/TERM/M/MAC_address.html) (accessed Apr. 5, 2004).

activity logs establishes good cause. They indicate that ISPs such as Level 3 typically keep these logs for brief periods of time before erasing the data they contain. Plaintiffs might never identify the Defendants without obtaining access to the data contained in the logs. See Decl. Johnathan Whitehead Supp. *Ex Parte* App., at ¶ 22.

Under these circumstances, Plaintiffs have established good cause: Good cause exists where the evidence sought "may be consumed or destroyed with the passage of time, thereby disadvantaging one or more parties to the litigation." *Qwest*, 213 F.R.D. at 419. See also *Semitool, Inc. v. Tokyo Electron America, Inc.*, 208 F.R.D. 273, 276 (N.D.Cal. 2002) (Good cause exists where "the need for expedited discovery, in consideration of the administration of justice, outweighs the prejudice to the responding party").

However, given the fact that Plaintiffs' Application was *ex parte*, Plaintiffs should serve a copy of this Order along with the subpoena. Further, Level 3 may move to quash the subpoena within ten days of being served with the subpoena.

Accordingly, it is ORDERED:

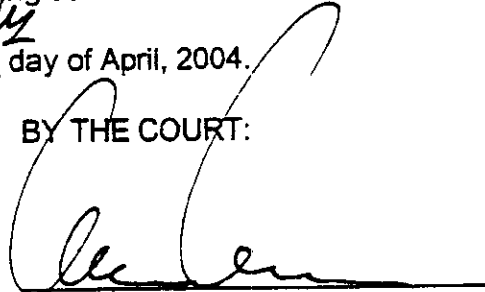
1. Plaintiffs' *Ex parte* Application for Leave to Take Immediate Discovery, filed March 23, 2004, is granted. Plaintiffs may serve a Rule 45 subpoena upon Level 3 Communications, LLC that seeks information sufficient to identify each Defendant's true name, address, telephone number, e-mail address, and Media Access Control address.
2. Any information disclosed to Plaintiffs in response to the subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights

under the Copyright Act as set forth in the Complaint.

3. Plaintiffs' shall serve Level 3 Communications, LLC with a copy of this Order along with the subpoena.
4. If Level 3 Communications, LLC wishes to move to quash the subpoena, it must do so within ten days of being served with it.

DATED at Denver, Colorado, this 1<sup>st</sup> day of April, 2004.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Walker D. Miller', is written over a horizontal line.

Walker D. Miller  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Walker D. Miller

CERTIFICATE OF MAILING

Case No.04-WM-548

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Copies of this Order were served by delivery; or depositing the same in the United States mail, postage prepaid, addressed to the persons listed below:

Richard L. Gabriel  
Timothy M. Reynolds  
Holme Roberts & Owen LLP  
DC Box 7

Magistrate Judge Patricia Coan

Dated: April 8, 2004

A handwritten signature in cursive script, appearing to read "Patricia Coan", written over a horizontal line.



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

WARNER BROS. RECORDS INC., a  
Delaware corporation; BMG MUSIC, a New  
York general partnership; SONY MUSIC  
ENTERTAINMENT INC., a Delaware  
corporation; MAVERICK RECORDING  
COMPANY, a California joint venture; UMG  
RECORDINGS, INC., a Delaware corporation;  
ELEKTRA ENTERTAINMENT GROUP  
INC., a Delaware corporation; INTERSCOPE  
RECORDS, a California general partnership;  
VIRGIN RECORDS AMERICA, INC., a  
California corporation; ATLANTIC  
RECORDING CORPORATION, a Delaware  
corporation; CAPITOL RECORDS, INC., a  
Delaware corporation; and CAPITOL  
RECORDS, INC., a Delaware corporation,

Hon. : Gerald E. Rosen  
Case : 04-71058

**FILED**  
APR 05 2004  
CLERK OF COURT  
U. S. DISTRICT COURT  
EASTERN MICHIGAN

Plaintiffs,

v.

DOES 1 - 9,

Defendants.

---

JONATHAN D. ROWE (P35384)  
MATTHEW E. KRICHBAUM (P52491)  
SOBLE & ROWE, LLP  
Attorneys for Plaintiff  
221 North Main Street, Suite 200  
Ann Arbor, Michigan 48104  
(734) 996 5600

---

**ORDER GRANTING PLAINTIFFS' *EX PARTE* MOTION FOR LEAVE  
TO TAKE IMMEDIATE DISCOVERY**

Upon the *Ex Parte* Motion of Plaintiffs for Leave to Take Immediate Discovery,  
the supporting Memorandum of Law, and the declaration of Jonathan Whitehead and the exhibit  
thereto, it is hereby:

ORDERED that Plaintiffs may serve immediate discovery on the University of Michigan to obtain the identity of each Doe Defendant by serving a Rule 45 subpoena that seeks information sufficient to identify each Doe Defendant, including the name, address, telephone number, e-mail address, and Media Access Control addresses for each Defendant.

IT IS FURTHER ORDERED THAT any information disclosed to Plaintiffs in response to the Rule 45 subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights under the Copyright Act.

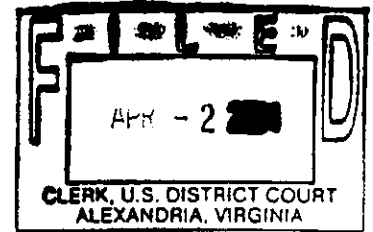
Dated: 4-5-04

**GERALD E. ROSEN**

\_\_\_\_\_  
United States District Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION



ATLANTIC RECORDING ) Case No. 1:04CV316  
CORPORATION, a Delaware corporation; )  
PRIORITY RECORDS LLC, a California )  
limited liability company; WARNER BROS. )  
RECORDS INC., a Delaware corporation; )  
VIRGIN RECORDS AMERICA, INC., a )  
California corporation; ARISTA RECORDS, )  
INC., a Delaware corporation; BMG )  
MUSIC, a New York general partnership; )  
CAPITOL RECORDS, INC., a Delaware )  
corporation; FONOVisA, INC., a California )  
corporation; INTERSCOPE RECORDS, a )  
California general partnership; ELEKTRA )  
ENTERTAINMENT GROUP INC., a )  
Delaware corporation; MOTOWN RECORD )  
COMPANY, L.P., a California limited )  
partnership; MAVERICK RECORDING )  
COMPANY, a California joint venture; )  
UMG RECORDINGS, INC., a Delaware )  
corporation; and SONY MUSIC )  
ENTERTAINMENT INC., a Delaware )  
corporation, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
Does 1 - 13, )  
 )  
Defendants. )

**ORDER GRANTING PLAINTIFFS' MOTION FOR LEAVE TO TAKE IMMEDIATE  
DISCOVERY**

Upon the Motion of Plaintiffs for Leave to Take Immediate Discovery and the supporting Memorandum of Law, and the declaration of Jonathan Whitehead and the exhibit thereto, it is hereby:

ORDERED that Plaintiffs may serve immediate discovery on America Online, Inc. to obtain the identity of each Doe Defendant by serving a Rule 45 subpoena that seeks information sufficient to identify each Doe Defendant, including the name, address, telephone number, e-mail address, and Media Access Control addresses for each Defendant.

IT IS FURTHER ORDERED THAT any information disclosed to Plaintiffs in response to the Rule 45 subpoena may be used by Plaintiffs solely for the purpose of protecting Plaintiffs' rights under the Copyright Act.

Dated: \_\_\_\_\_

April 2, 2004

\_\_\_\_\_  
United States Magistrate Judge

